

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Salk	Team: Team # 5	CCRB Case #: 201000158	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 12/27/2009 2:03 PM	Location of Incident: § 87(2)(b)	Precinct: 110	18 Mo. SOL 6/27/2011	EO SOL 6/27/2011	
Date/Time CV Reported Wed, 12/30/2009 8:49 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/06/2010 10:50 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Carlos Segovia	26422	937513	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jonas Schwizer	27661	926092	110 PCT
2. SGT Stuart Wohl	04695	931439	110 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Carlos Segovia	Force: PO Carlos Segovia used a chokehold against § 87(2)(b)	§ 87(2)(b)
B.POM Carlos Segovia	Force: PO Carlos Segovia used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint with Internal Affairs by phone on December 30, 2009; it was forwarded to the CCRB and received on January 6, 2010. § 87(2)(b) did not witness this incident, which involved his son, § 87(2)(b) (All references to § 87(2)(b) for the remainder of this report refer to the younger § 87(2)(b) who was the victim in this case.) In front of § 87(2)(b) § 87(2)(b) in Queens, on December 27, 2009, at about 2:03 p.m., § 87(2)(b) while impersonating a police officer, attempted to rob two brothers, § 87(2)(b) and § 87(2)(b) and their unidentified uncle. PO Carlos Segovia, off-duty at the time, § 87(2)(b) He decided to intervene, and forcibly detained § 87(2)(b) until uniformed police arrived to place him under arrest. The following allegations were raised:

- **Allegation A – Force: PO Carlos Segovia used a chokehold against § 87(2)(b)**
§ 87(2)(g)
- **Allegation B – Force: PO Carlos Segovia used physical force against § 87(2)(b)**
§ 87(2)(g)

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old Hispanic male standing 5'9" and weighing 185 pounds with brown hair and brown eyes.

CCRB Testimony (encl. 5)

§ 87(2)(b) was interviewed on February 19, 2010, at § 87(2)(b) at Rikers Island.

On December 27, 2009, sometime around 1:00 p.m. (the investigation determined the incident time to be 2:03 p.m.), § 87(2)(b) was driving his Jeep Grand Cherokee in the vicinity of § 87(2)(b) § 87(2)(b) in Queens. He was alone, and was wearing blue jeans, sneakers, a jacket and a baseball cap. He had consumed about two shots of vodka and one 12-ounce beer about an hour and a half before the incident, but stated that he was not intoxicated.

§ 87(2)(b) stopped his car and started speaking to three Asian males standing on the left-hand side of the street, identified by investigation as § 87(2)(b) his brother § 87(2)(b) and their uncle, whose name remains unknown. In the past, § 87(2)(b) had purchased drugs from these men, and had rented boarding-house rooms from them on a nightly basis. On this date, § 87(2)(b) intended to rent a room.

While in his car, § 87(2)(b) spoke to the men, but exited the car during the conversation. § 87(2)(b) and the Asian males began arguing over the price of the room. § 87(2)(b) felt he was being taken advantage of and grew irate. After telling them “what they could do with their price,” as he put it to the CCRB, he turned and walked back toward his Jeep. He denied having any physical contact with them, engaging in any financial transaction with them, or removing any objects from them.

As § 87(2)(b) was walking toward his car, he turned over his left shoulder to yell some

final words at the Asian males, who remained about 15 to 20 feet away from him. As he turned back to the car, someone placed an arm around the front of § 87(2)(b)'s throat, with the crook of the elbow resting on his throat. This "crushed" § 87(2)(b)'s throat and severely restricted his breathing. § 87(2)(b) later learned this was an off-duty police officer, identified by investigation as PO Segovia. § 87(2)(b) could not see PO Segovia or describe him; however, he stated that it could not have been the Asian males who attacked him because they remained about 15-20 feet behind him.

§ 87(2)(b) put both hands on PO Segovia's arm and tried to pull it from his throat. PO Segovia struck him repeatedly in the left side of his face, near his eye, cheek, and jaw. He could not see what he was struck with but thought it felt more like a hard object than a fist.

§ 87(2)(b) fell unconscious while standing, possibly from being choked. He did not recall falling to the ground. He was next aware of lying facedown on the ground. He was being struck in the left side of his face and left arm. He could not say who was hitting him. He heard police sirens and radios. He was then picked up and put in a patrol car. He could not say when he was handcuffed.

§ 87(2)(b) was only partly conscious throughout his arrest processing. He did not request medical attention until he was at Queens Central Booking, eight to 12 hours after his arrest. By that time, his jaw was hurting and his left eye was completely swollen shut. When EMTs arrived to treat him at Queens Central Booking, officers told them that § 87(2)(b) had earlier refused medical attention. § 87(2)(b) could not remember whether he was ever offered medical attention.) He was taken to § 87(2)(b), where he was given a CT scan and X-rays. § 87(2)(b) also stated during his CCRB interview that he fractured his right ring finger at an unknown point during the incident. The finger was visibly bent at the second knuckle at the time of § 87(2)(b)'s interview. It could not be photographed, due to security restrictions at Rikers Island preventing the use of cameras. § 87(2)(b) had received no medical attention for this injury.

§ 87(2)(b) claimed that at the time of the incident, he had no idea why he was being arrested, and only learned later of the charges against him.

Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old Asian male standing 5'6" and weighing 152 pounds, with black hair and brown eyes. § 87(2)(b)

CCRB Testimony (encl. 6)

§ 87(2)(b) was interviewed at the CCRB on March 5, 2010.

On the incident date, § 87(2)(b) his brother § 87(2)(b) and their § 87(2)(b)-old uncle (whose name § 87(2)(b) did not know), took a van together from Chinatown in Manhattan to Queens. They were heading to a holiday party thrown at the home of § 87(2)(b)'s aunt. They exited the van and began to walk the remaining distance to their destination.

While walking on the sidewalk, in front of § 87(2)(b), they were approached by a male individual in a black Jeep, identified by investigation as § 87(2)(b). § 87(2)(b) had never seen him before. § 87(2)(b) got out of the Jeep and repeatedly yelled, "Against the wall, the three of you." He was wearing a bulletproof vest under his jacket, so § 87(2)(b) believed he was a police officer. The three men complied and stood facing the wall. § 87(2)(b) pushed § 87(2)(b) and said, "Show me your ID." § 87(2)(b) began to reach toward his back pocket to get his wallet. § 87(2)(b) told him not to move, then removed the wallet himself.

As § 87(2)(b) leaned in to remove the wallet, § 87(2)(b) smelled alcohol on his breath, which made him suspicious. He turned his head and glanced at § 87(2)(b) and saw him remove some cash from § 87(2)(b)'s wallet (a sum which turned out to be \$359). He then put the

wallet back in § 87(2)(b)'s pocket without looking at his ID. § 87(2)(b) said to his brother, "Hey, this guy took all my money." § 87(2)(b)'s brother told § 87(2)(b) to show them his police shield or ID. § 87(2)(b) looked nervous, then ran back to his car. They realized at this point he was not a police officer, and chased him, catching up to him just as he reached the car. All three began to fight with § 87(2)(b) to prevent him from fleeing and to recover the money. § 87(2)(b) struggled with them, and because he was significantly larger, they were unable to subdue him. § 87(2)(b)'s brother approached § 87(2)(b) from behind and wrapped his arms around § 87(2)(b)'s upper chest or neck. § 87(2)(b)'s uncle punched § 87(2)(b) in the left side of his face. § 87(2)(b) later noticed § 87(2)(b) had a black left eye and suspected this was the cause. § 87(2)(b) tried to grab § 87(2)(b)'s hands, because § 87(2)(b) continued to swing his hands and arms at the men. § 87(2)(b) indicated that he and his brother also punched § 87(2)(b) but he could not state exactly how or where, and described it as an all-out fight.

Two unidentified pedestrians saw what was happening and called 911. Shortly afterward, an off-duty officer, identified by the investigation as PO Segovia, § 87(2)(b) He said he was a police officer and showed his shield. § 87(2)(b) was still standing up and continued to struggle; he had one hand free at this point and used it to try to strike everyone. PO Segovia pulled his arms behind his back as if to handcuff him, though he had no cuffs. § 87(2)(b) twisted his body back and forth in an apparent attempt to break free. PO Segovia said, "On the ground," then pushed him to the ground. On the ground, § 87(2)(b) continued to move around and PO Segovia told him to stay still or he would "hurt [himself]."

PO Segovia never punched, kicked, or otherwise struck § 87(2)(b). Uniformed officers responded and handcuffed § 87(2)(b). No one ever struck him while he was on the ground. It never appeared that § 87(2)(b) was unconscious, and he never stopped struggling or became compliant.

NYPD Statements:

Subject Officer: PO CARLOS SEGOVIA

- *PO Segovia is a § 87(2)(b)-old Hispanic male standing 5'7" and weighing 190 pounds, with black hair and brown eyes.*
- *PO Segovia was off-duty at the time of the incident.*

Memo Book (encl. 7)

PO Segovia's memo book indicates that he was on vacation on the incident date.

CCRB Testimony (encl. 8)

PO Segovia was interviewed at the CCRB on March 11, 2010.

At about 2:00 p.m. on December 27, 2009, PO Segovia was off-duty § 87(2)(b) in Queens, § 87(2)(b). He heard a commotion outside and looked out the window, where he saw a light-skinned male, identified by investigation as § 87(2)(b) standing and wearing a bulletproof vest. § 87(2)(b) had three Asian males standing facing toward a fence that abuts PO Segovia's home. The three males had their hands on the walls. § 87(2)(b) was going through their pockets. There was a black sport-utility vehicle parked on the street.

Because § 87(2)(b) was not wearing a gun belt or shield around his neck, and was not displaying the color of the day, PO Segovia suspected he was not a police officer. He decided to investigate. He retrieved his shield, police ID, and firearm; during this brief period, he was unable to see what was happening between § 87(2)(b) and the Asian males. He then went downstairs. As he walked outside, he heard a bigger commotion, and saw that the Asian males were wrestling

with § 87(2)(b) and had pushed him with his back against the black SUV, while § 87(2)(b) tried to push them off him. PO Segovia did not recall seeing anyone strike § 87(2)(b) anywhere on his face or body.

PO Segovia ran toward them and identified himself as a police officer. One of the Asian males told PO Segovia that § 87(2)(b) had robbed them and was impersonating a police officer. PO Segovia approached, removed the front panel from § 87(2)(b)'s bulletproof vest, and quickly frisked him to ensure he was not armed, while he continued wrestling with them. § 87(2)(b) remained combative. PO Segovia grabbed § 87(2)(b) with both hands, stepped to his side, and tripped him so he fell to the ground. He then sat on § 87(2)(b)'s back and held his hands behind his back. § 87(2)(b) repeatedly tried to shake him off his back and to stand up.

An unidentified female pedestrian, having seen all this, was on the phone with 911. PO Segovia told her he was a police officer and she handed him the phone. PO Segovia reported what happened to the operator, and uniformed officers responded shortly afterward to place § 87(2)(b) under arrest. PO Segovia did not know their names. PO Segovia went to the stationhouse for more than seven hours, and spoke about the incident with his union delegate, an Assistant District Attorney, and an investigator from the Internal Affairs police impersonation unit.

PO Segovia never learned that § 87(2)(b) ever required or received medical attention. He remembered that part of § 87(2)(b)'s face was swollen, but could not remember where on his face the swelling was and did not remember anything that may have caused the swelling. He acknowledged that § 87(2)(b) fell face-first to the ground, but did not remember whether his head struck the ground. When asked, he denied punching, kicking, or otherwise striking § 87(2)(b) in his face or elsewhere on his body, or wrapping his arms or hands around § 87(2)(b)'s neck or throat.

Medical Records: Elmhurst Hospital (encl. 11)

§ 87(2)(b)'s medical records indicate that he arrived at § 87(2)(b) at § 87(2)(b) on § 87(2)(b). He was transported via police vehicle. § 87(2)(b)'s chief complaint was pain to left eye and head, secondary post assault. He was “awake and alert and speaking coherently.” He had swelling to his left eye and was unable to open it. He also had pain in his head and left shoulder. There was no pre-hospital care provided by EMS.

The medical records note that § 87(2)(b) is a “poor historian” of his ailments, and indicate that he was struck in the head by “unknown individuals.” He reported that he had fallen unconscious.

A physical examination revealed bruising and a “subconjunctival hemorrhage” to his left eye, and a CT scan indicated he had head trauma. He was prescribed Percocet and ibuprofen for pain relief.

NYPD Documents

SPRINT and Communications Recordings (encl. 12)

Several SPRINTs were generated regarding the incident. The CCRB obtained recordings of all 911 calls and radio transmissions relating to these SPRINTs.

At 1:47 p.m., an anonymous male 911 caller stated that he was at § 87(2)(b), and that a group of people were fighting in front of the house, while providing no further information.

Also at 1:47 p.m., two anonymous female 911 callers stated that they were at § 87(2)(b). The first stated there were three men fighting with a fourth in front of his car. The second caller was then put on the line, and stated that there were two men fighting a third man (identified by the CCRB as § 87(2)(b) near his car. She believed § 87(2)(b) was “getting

mugged” or having his car stolen by the other men, who had § 87(2)(b) pinned against the vehicle and were repeatedly hitting him. She had not seen what preceded this – her attention was drawn by the sound of a scream, and when she looked out the window, they were already fighting by the car.

At 1:48 p.m., another call was placed by a male who spoke in Spanish briefly and then handed the phone to a male (identified by the CCRB as PO Segovia) who identified himself as an off-duty police officer. PO Segovia was yelling and his voice sounds stressed on the recording. He stated that he had the perpetrator on the floor, and was “surrounded by Asian people.”

At 1:50 p.m., sector D and the patrol sergeant responded. At 1:53 p.m., sector G responded. § 87(2)(b) was placed under arrest by sector G at 2:03 p.m.

Complaint/Arrest Reports (encl. 10)

§ 87(2)(b)'s complaint and arrest reports are wholly consistent with the account § 87(2)(b) provided to the CCRB.

Medical Treatment of Prisoner Report (encl. 13)

This report, prepared at Queens Central Booking, indicates that § 87(2)(b) sustained bruising and swelling to his left eye while committing a crime. He refused medical attention at the stationhouse, but was taken to the hospital via ambulance from Central Booking.

Vouchers (encl. 14)

Vouchered as arrest evidence were a black “billy club” with a brown strap, front and back body armor panels from a bulletproof vest, and front and back “carriers” for those panels.

Command Log (encl. 15)

§ 87(2)(b)'s arrest was logged into the 110th Precinct command log at 2:40 p.m. The log indicates that he suffered from “minor swelling;” because the log provided is not entirely legible, it is not possible to make out whether the log notes the location of this swelling. It indicates that he refused medical attention.

Summons/Arrest for Incident and Disposition (encl. 18)

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings (encl. 19)

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of March 15, 2010 with regard to the incident.

Civilian’s Criminal History (encl. 20)

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

§ 87(2)(g)

§ 87(2)(b) and PO Segovia consistently testified that PO Segovia used only minimal force to subdue § 87(2)(b) until uniformed police could arrive and place him under arrest.

§ 87(2)(g)

Team: _____

:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date